

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAMIEN RIVERO,

Petitioner,

vs.

E.K. McDANIEL, *et al.*,

Respondents.

3:09-cv-00284-LRH-VPC

ORDER

On June 6, 2009, this Court entered an order requiring respondents to appear in the instant action and to answer or otherwise respond by August 5, 2009 (docket #3). Respondents have not filed an appearance, nor have they filed an answer or other response. Petitioner has filed a motion requesting court order granting the petition for writ of habeas corpus (docket #5).

The Court will deny petitioner's motion. Petitioner essentially is seeking a clerk's default, or a default judgment due to respondents' failure to appear or answer the petition. Default judgments are disfavored in habeas corpus cases and petitioner is not entitled to a default judgment merely because respondents have failed to file an answer or other response. *Bleitner v. Weiborn*, 15 F.3d 652, 653 (7th Cir. 1994); *Gordon v. Duran*, 895 F.2d 610, 612 (9th Cir. 1990) (stating "[t]he failure to respond to claims raised in a petition for habeas corpus does not entitle the petitioner to a default judgment"). The Court will give respondents thirty days from the date of this order to show cause why they have not appeared and filed an answer or other response to the petition for writ of habeas corpus.

IT IS THEREFORE ORDERED that petitioner's motion requesting court order granting

1 the petition for writ of habeas corpus (docket #5) is **DENIED**.

2 **IT IS FURTHER ORDERED** that respondents shall have thirty (30) days to **SHOW**
3 **CAUSE** why they have not appeared and filed and served an answer or other response to the petition
4 for writ of habeas corpus as ordered by this Court on June 8, 2009.

5 DATED this 27th day of October, 2009.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE